

HB 847 -- Civil Contempt for Failure to Appear for Debt Collection

Sponsor: Gardner

This bill changes the laws regarding civil contempt for failure to appear for debt collection. In its main provisions, the bill:

(1) Prohibits an order for the incarceration or detention of a person to answer for a charge of indirect civil contempt from being issued unless the person has first had an opportunity, after being personally served a summons, to appear in court to show cause why he or she should not be held in contempt. The summons must be an order to show cause and must expire one year after the date of issue;

(2) Specifies that the first order issued under these provisions and directed to a person may be in the nature of a recognizance bond in the sum of no more than \$500 or personal recognizance for claims arising from consumer credit transactions where the creditor is a vendor creditor or a lender creditor;

(3) Specifies that a "vendor creditor" means a creditor who is a seller of a product or service, and a "lender creditor" means a creditor who lends money to a consumer;

(4) Specifies that upon discharge of any bond secured by the posting of funds, the funds must be returned to the person or other party posting the bond, less applicable fees, unless the court after inquiry makes certain specified determinations;

(5) Requires any person personally served a summons under these provisions to also receive a copy of an income and asset form that must contain specified information. If the judgment debtor fails to complete the form or the form is incomplete, the court may proceed with an action against the judgment debtor for the purpose of allowing the judgment creditor to discover income and assets belonging to the judgment debtor or which the judgment debtor has an interest;

(6) Specifies that no payment order can be entered by the court against a judgment debtor that is a natural person unless the income and asset form was served upon the judgment debtor as required by these provisions, the judgment debtor had an opportunity to assert exemptions, and the payments are from non-exempt sources. If upon examination the court determines that the judgment debtor does not possess non-exempt income or property assets, the citation must be dismissed; and

(7) Prohibits any debtor from being repeatedly summoned unless the

creditor has evidence that circumstances have changed, including a new debt by the debtor.